

# STATE OF COLORADO

**OFFICES OF THE GOVERNOR  
& THE ATTORNEY GENERAL**



**Bill Ritter, Jr.  
Governor**

**John W. Suthers  
Attorney General**

February 13, 2007

## **A MESSAGE TO ALL STATE AND LOCAL GOVERNMENT EMPLOYEES REGARDING AMENDMENT 41**

In the weeks since Amendment 41 took effect, there has been a growing concern among government employees at all levels over the effect that the Amendment will have on the ability of employees' children to apply for and accept educational scholarships. We understand and share these concerns.

We are troubled by the recent reports of government employees leaving or contemplating leaving government service due to concerns over Amendment 41 and the restrictions that they fear it will impose on their children's opportunity to apply and be considered for scholarships. We ask for your patience and understanding while work continues to clarify the meaning of Amendment 41.

The atmosphere of anxiety is stoked by the fact that we currently have very little guidance regarding the meaning of certain provisions of Amendment 41. We are, however, convinced that when the voters approved Amendment 41 it was not their intent to limit the opportunities of the children of government employees to compete for scholarships on equal footing with the children of non-government employees. We are also confident that most scholarships that contain significant ongoing performance requirements are not prohibited by the plain language of the Amendment.

Indeed, over the last two weeks, three lawsuits have been filed. In these suits, litigants are either seeking clarification of the meaning of Amendment 41 or asking the courts to strike down some of the provisions of the Amendment. These lawsuits will help us achieve much needed clarity regarding the Amendment.

One of the lawsuits regarding Amendment 41 and its impact on scholarship eligibility was settled late last week. The suit was brought against the Governor by the Boettcher Foundation and three current Boettcher scholars. In the suit, the parties sought clarification that Amendment 41 does not prohibit the children of government employees from receiving the Boettcher scholarship. We worked with the plaintiffs to reach a favorable settlement. Specifically, when approving the parties' settlement, the Denver District Court found that the requirements imposed by the Boettcher Foundation upon its scholarship recipients – attendance at a Colorado college or university and maintenance of a minimum grade point average and course load – constitutes adequate consideration under Amendment 41.

While the settlement in the Boettcher Foundation case does not resolve all of the outstanding questions regarding the impact that Amendment 41 could have on students and their families, it

is an important first step. As we did in the Boettcher Foundation case, we will continue to work towards achieving clarity for government employees.

In the meantime, we urge you not to allow uncertainty over Amendment 41 to lead to hasty decisions regarding your employment with the State of Colorado or local governments, and ask for your patience while we continue to address the many lingering questions regarding its implementation. If you have specific questions about accepting a scholarship, we encourage you to speak with a supervisor or manager in your department or agency. While they may not be able to provide an immediate answer to every question, we are confident that at the end of the day, the majority of scholarships for the children of government employees will be acceptable under Amendment 41.

Sincerely,

Bill Ritter, Jr.  
Governor

John W. Suthers  
Attorney General